

110TH CONGRESS
1ST SESSION

H. R. 2475

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to guarantee home equity conversion mortgages for elderly veteran homeowners.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2007

Mr. MICHAUD (for himself and Ms. GINNY BROWN-WAITE of Florida) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to guarantee home equity conversion mortgages for elderly veteran homeowners.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veteran Home Equity
5 Conversion Mortgage Act of 2007”.

1 **SEC. 2. DEPARTMENT OF VETERANS AFFAIRS GUARANTEE**
2 **OF HOME EQUITY CONVERSION MORTGAGES**
3 **FOR ELDERLY VETERAN HOMEOWNERS.**

4 (a) LOAN GUARANTEE AUTHORIZED.—Subchapter II
5 of chapter 37 of title 38, United States Code, is amended
6 by adding at the end the following new section:

7 **“§ 3715. Guarantee of home equity conversion mort-**
8 **gages for elderly veteran homeowners**

9 “(a) LOAN GUARANTEE.—Upon receiving an applica-
10 tion by a covered mortgagee and under such terms and
11 conditions as the Secretary may prescribe, the Secretary
12 may guarantee any home equity conversion mortgage that
13 is made to an elderly veteran homeowner pursuant to the
14 provisions of this section and conforms with all applicable
15 provisions of this title.

16 “(b) STANDARDS FOR COMMITMENT.—The Secretary
17 shall establish standards under which the Secretary will
18 commit to guarantee such home equity conversion mort-
19 gage made to an elderly veteran homeowner before the
20 date on which the mortgage is executed, if the Secretary
21 determines that the mortgage—

22 “(1) is likely to improve the financial situation
23 or otherwise meet the special needs of the elderly
24 veteran homeowner;

1 “(2) will include appropriate safeguards for the
2 elderly veteran homeowner to offset the special risks
3 associated with the mortgage; and

4 “(3) has such terms as the Secretary may es-
5 tablish to ensure that it is accepted in the secondary
6 mortgage market.

7 “(c) MORTGAGE ELIGIBILITY.—A home equity con-
8 version mortgage may be guaranteed under this section
9 if it—

10 “(1) is secured by a dwelling, farm residence,
11 one-family residential unit in a condominium hous-
12 ing development or project, or manufactured home
13 permanently affixed to a lot, that is owned and occu-
14 pied by the eligible elderly veteran homeowner;

15 “(2) has been executed by an elderly veteran
16 homeowner who—

17 “(A) has discussed with a loan counselor
18 approved by the Secretary—

19 “(i) options other than a home equity
20 conversion mortgage that are available to
21 the homeowner, including other housing,
22 social service, health, and financial options;

23 “(ii) other home equity conversion op-
24 tions that are or may become available to
25 the homeowner, such as sale-leaseback fi-

1 nancing, deferred payment loans, and
2 property tax deferral; and

3 “(iii) the financial implications of en-
4 tering into a home equity conversion mort-
5 gage; and

6 “(iv) any other information that the
7 Secretary may require;

8 “(B) has received a disclosure that a home
9 equity conversion mortgage may have tax con-
10 sequences, affect eligibility for assistance under
11 Federal and State programs, and have an im-
12 pact on the heirs and estate of the homeowner;

13 “(C) has received the full disclosure de-
14 scribed in subsection (e)(1); and

15 “(D) meets any additional requirements
16 prescribed by the Secretary;

17 “(3) provides that prepayment, in whole or in
18 part, may be made at any time during the period of
19 the mortgage, without penalty;

20 “(4) provides for a fixed or variable interest
21 rate or future sharing between the veteran and the
22 covered mortgagee of the appreciation in the value
23 of the property, as agreed upon by the veteran and
24 the mortgagee;

1 “(5) provides for the satisfaction of the obliga-
2 tion in a manner satisfactory to the Secretary;

3 “(6) provides that the eligible elderly veteran
4 homeowner is not liable for any difference between
5 the net amount of remaining indebtedness under the
6 mortgage and the amount recovered by the covered
7 mortgagee from the net sales proceeds from the
8 dwelling that is subject to the mortgage (based upon
9 the amount of the accumulated equity selected by
10 the veteran to be subject to the mortgage, as agreed
11 upon by the veteran and the mortgagee);

12 “(7) contains such terms and provisions with
13 respect to insurance, repairs, alterations, payment of
14 taxes, default reserve, delinquency charges, fore-
15 closure proceedings, anticipation of maturity, addi-
16 tional and secondary liens, and other matters as the
17 Secretary may prescribe;

18 “(8) provides for future payments to the vet-
19 eran, based on accumulated equity (minus any appli-
20 cable fees and charges), that are calculated accord-
21 ing one of the following methods chosen by the
22 homeowner:

23 “(A) payment based upon a line of credit;

24 “(B) payment on a monthly basis over a
25 term specified by the homeowner;

1 “(C) payment on a monthly basis over a
2 term specified by the homeowner and based
3 upon a line of credit;

4 “(D) payment on a monthly basis over the
5 tenure of the homeowner;

6 “(E) payment on a monthly basis over the
7 tenure of the homeowner and based upon a line
8 of credit; or

9 “(F) payment on any other basis that the
10 Secretary considers appropriate;

11 “(9) provides that the homeowner may convert
12 the method of payment chosen under paragraph (8)
13 to any other method under such paragraph during
14 the term of the loan, except that in the case of a
15 fixed-rate home equity conversion mortgage, the Sec-
16 retary may, by regulation, limit such convertibility;

17 “(10) contains such restrictions as the Sec-
18 retary may determine are appropriate to ensure that
19 the homeowner does not fund any unnecessary or ex-
20 cessive costs for obtaining the mortgage, including
21 any costs of estate planning, financial advice, or
22 other related services; and

23 “(11) satisfies any other requirements pre-
24 scribed by the Secretary.

1 “(d) CONDITIONS OF GUARANTEE.—(1) The Sec-
2 retary shall require the covered mortgagee of a home eq-
3 uity conversion mortgage guaranteed under this section to
4 make available to the elderly veteran homeowner—

5 “(A) at the time of the application for the loan
6 in connection with the mortgage, a written list of the
7 names and addresses of third-party information
8 sources who are approved by the Secretary as re-
9 sponsible and able to provide the information re-
10 quired by subsection (e);

11 “(B) by not later than 10 days before closing
12 on the loan, a statement informing the elderly vet-
13 eran homeowner of such homeowner’s limited liabil-
14 ity under the mortgage, as well as the homeowner’s
15 rights, obligations, and remedies with respect to
16 temporary absences from the home, late payments,
17 and payment default by the lender, along with any
18 conditions requiring satisfaction of the loan obliga-
19 tion and any other information that the Secretary
20 may require;

21 “(C) by not later than January 31 of each year,
22 an annual statement summarizing for the preceding
23 calendar year the total principal amount paid to the
24 homeowner under the loan secured by the home eq-
25 uity conversion mortgage, the total amount of de-

1 ferred interest added to the principal, and the out-
2 standing loan balance at the end of that year; and

3 “(D) before closing on the loan, a statement of
4 the projected total cost of the mortgage to the vet-
5 eran homeowner based upon the projected total fu-
6 ture loan balance (such cost expressed as a single
7 average annual interest rate for at least two dif-
8 ferent appreciation rates for the term of the mort-
9 gage) for not less than two projected loan terms, as
10 determined by the Secretary, which shall include—

11 “(i) the cost for a short-term home equity
12 conversion mortgage; and

13 “(ii) the cost for a loan term equaling the
14 actuarial life expectancy of the veteran.

15 “(2) The Secretary may not guarantee a home equity
16 conversion mortgage under this section unless such mort-
17 gage provides that the elderly veteran homeowner’s re-
18 sponsibility to satisfy the loan obligation is deferred until
19 the homeowners death, the sale of the home, or the occur-
20 rence of certain other events specified in regulations by
21 the Secretary.

22 “(e) INFORMATION PROVIDED TO HOMEOWNER.—
23 (1) The Secretary shall provide or arrange, before exe-
24 cuting on a home equity conversion mortgage under this
25 section, for a third-party to provide to the elderly veteran

1 homeowner under the mortgage a full disclosure that
2 clearly states—

3 “(A) all of the costs charged to the homeowner,
4 including the costs of estate planning, financial ad-
5 vice, and other services that are related to the mort-
6 gage but are not required to obtain the mortgage;
7 and

8 “(B) which of the costs under subparagraph
9 (A) are required to obtain the mortgage and which
10 are not required to obtain the mortgage; and

11 “(2) The Secretary may, in lieu of carrying out para-
12 graph (1), adopt an alternative approach to educating an
13 elderly veteran homeowner, but only if such alternative ap-
14 proach provides to the homeowner all of the information
15 specified such paragraphs. For the purpose of carrying out
16 the preceding sentence, the Secretary shall consult with
17 industry representatives, consumer groups, representatives
18 of counseling organizations, and other interested parties
19 to identify alternative approaches to providing to the el-
20 derly veteran homeowner the information required under
21 this subsection that may be feasible and desirable for
22 home equity conversion mortgages guaranteed under this
23 section.

24 “(f) LIMITATION ON AMOUNT OF BENEFITS.—In no
25 case may the benefit from a guarantee of a mortgage

1 under this section exceed the maximum guarantee amount
2 under section 3703 of this title.

3 “(g) ADDITIONAL AUTHORITY.—(1) To further the
4 purposes of this section, the Secretary shall take any ac-
5 tion necessary—

6 “(A) to provide any elderly veteran homeowner
7 with funds to which the homeowner is entitled under
8 a mortgage guaranteed under this section, but that
9 the homeowner has not received because of the de-
10 fault of the party responsible for payment;

11 “(B) to obtain repayment from any source of
12 any amount provided to a homeowner under sub-
13 paragraph (A); and

14 “(C) to provide a covered mortgagee with funds
15 to which the mortgagee is entitled under the terms
16 of a mortgage guaranteed under this section.

17 “(2) Actions under paragraph (1) may include—

18 “(A) disbursing funds to the elderly veteran
19 homeowner or covered mortgagee from the Veterans
20 Housing Benefit Program Fund;

21 “(B) accepting an assignment of the guaran-
22 teed mortgage, notwithstanding that the homeowner
23 is not in default under the terms of the mortgage,
24 and calculating the amount and making the payment
25 of a claim on such assigned mortgage;

1 “(C) requiring a subordinate mortgage from the
2 homeowner at any time in order to secure repay-
3 ments of any funds previously advanced or to be ad-
4 vanced to the homeowner;

5 “(D) requiring a subrogation to the Secretary
6 of the rights of any parties to the transaction
7 against any defaulting parties; and

8 “(E) imposing premium charges.

9 “(h) EXEMPTION FROM CERTAIN PROVISIONS OF
10 LAW.—Section 137(b) of the Truth in Lending Act (15
11 U.S.C. 1647(b)) and any implementing regulations issued
12 by the Board of Governors of the Federal Reserve System
13 shall not apply to a mortgage guaranteed under this sec-
14 tion.

15 “(i) AUTHORITY TO GUARANTEE MORTGAGES FOR
16 REFINANCING.—(1) The Secretary may, upon application
17 by a covered mortgagee, guarantee any mortgage given to
18 refinance an existing home equity conversion mortgage
19 guaranteed under this section.

20 “(2) As a condition of guaranteeing a mortgage
21 under this subsection, the Secretary shall require that the
22 covered mortgagee of a home equity conversion mortgage
23 guaranteed under this subsection provide to the elderly
24 veteran homeowner, within an appropriate period of time
25 and in a manner, a good faith estimate of—

1 “(A) the total cost of the refinancing; and

2 “(B) the increase in the homeowner’s principal
3 limit as measured by the estimated initial principal
4 limit on the mortgage to be guaranteed under this
5 subsection, less the current principal limit on the
6 home equity conversion mortgage that is being refi-
7 nanced and guaranteed under this subsection.

8 “(3) The amount of the loan fee for a mortgage refi-
9 nanced under this subsection shall be determined by the
10 Secretary under section 3729 of this title.

11 “(4) In the case of an elderly veteran homeowner who
12 applies for refinancing under this subsection, the Sec-
13 retary may waive the requirement that the homeowner re-
14 ceive information under subsection (e), but only if—

15 “(A) the increase in the principal limit exceeds
16 the amount of the total cost of refinancing by an
17 amount to be determined by the Secretary; and

18 “(B) the time between the closing of the origi-
19 nal home equity conversion mortgage being refi-
20 nanced through the mortgage guaranteed under this
21 subsection and the application for a refinancing
22 mortgage guaranteed under this subsection does not
23 exceed five years.

24 “(j) ORIGINATION FEE.—The Secretary may estab-
25 lish a limit on the origination fee that may be charged

1 to an elderly veteran homeowner for a mortgage guaran-
2 teed under this section, except that such limitation shall
3 provide that the origination fee may be fully financed with
4 the mortgage and shall include any fees paid to cor-
5 respondent mortgagees approved by the Secretary.

6 “(k) FEE WAIVER.—(1) Notwithstanding section
7 3729 of this title, in the case of a mortgage guaranteed
8 under this section for which the total amount (except as
9 provided under paragraph (2)) of all future payments de-
10 scribed in subsection (l)(4)(B) are to be used only to fund
11 the cost of a qualified long-term care insurance contract
12 that covers the elderly veteran homeowner or a member
13 of the homeowner’s household residing in the property
14 subject to the mortgage, the Secretary may not charge or
15 collect the loan fee otherwise required under subparagraph
16 (a) of such section.

17 “(2) A mortgage described in paragraph (1) may pro-
18 vide for financing of any amount used to satisfy out-
19 standing mortgage obligations (in accordance with such
20 limitations as the Secretary shall prescribe) and any
21 amount used for initial service charges, appraisal, inspec-
22 tion, and other fees (as approved by the Secretary) in con-
23 nection with such mortgage, and the amount of future
24 payments shall be reduced accordingly.

1 “(3) For purposes of this subsection, the term ‘quali-
2 fied long-term care insurance contract’ has the meaning
3 given such term in section 7702B of the Internal Revenue
4 Code of 1986 (26 U.S.C. 7702B), except that such con-
5 tract shall also meet the requirements of—

6 “(A) sections 9 (relating to disclosure), 24 (re-
7 lating to suitability), and 26 (relating to contingent
8 nonforfeiture) of the long-term care insurance model
9 regulation promulgated by the National Association
10 of Insurance Commissioners (as adopted as of Sep-
11 tember 2000); and

12 “(B) section 8 (relating to contingent nonfor-
13 feiture) of the long-term care insurance model Act
14 promulgated by the National Association of Insur-
15 ance Commissioners (as adopted as of September
16 2000).

17 “(1) DEFINITIONS.—For the purposes this section:

18 “(1) The term ‘elderly veteran homeowner’
19 means any homeowner who is, or whose spouse is,
20 a veteran who is eligible for housing loan benefits
21 under this title and who is at least 62 years of age
22 or such higher age as the Secretary may prescribe.

23 “(2) The term ‘mortgage’ means a first mort-
24 gage or first lien—

25 “(A) on real estate, in fee simple;

1 “(B) on all stock allocated to a dwelling in
2 a residential cooperative housing corporation; or

3 “(C) on a leasehold that is—

4 “(i) under a lease for not less than 99
5 years that is renewable; or

6 “(ii) under a lease having a period of
7 not less than 10 years to run beyond the
8 maturity date of the mortgage.

9 “(3) The term ‘first mortgage’ means a first
10 lien that is given to secure an advance on, or the un-
11 paid purchase price of, real estate or all stock allo-
12 cated to a dwelling unit in a residential cooperative
13 housing corporation, under the laws of the State in
14 which the real estate or dwelling unit is located, to-
15 gether with any credit instruments secured for such
16 purpose.

17 “(4) The term ‘home equity conversion mort-
18 gage’ means a housing loan, as defined in section
19 3701 of this chapter that—

20 “(A) is secured by a first mortgage;

21 “(B) provides for future payments to the
22 homeowner based on accumulated equity; and

23 “(C) is made by—

24 “(i) a Federal land bank, National
25 bank, State bank, private bank, building

1 and loan association, insurance company,
 2 credit union, or mortgage and loan com-
 3 pany, that is subject to examination and
 4 supervision by an agency of the United
 5 States or of any State; or

6 “(ii) a State; or

7 “(iii) a lender or mortgage broker ap-
 8 proved by the Secretary pursuant to stand-
 9 ards established by the Secretary.”.

10 (b) CONFORMING AMENDMENT.—Section 3701(a) of
 11 such title is amended by striking “sections 3710(a) and
 12 3712(a)(1)” and inserting “sections 3710(a), 3712(a)(1),
 13 and 3715”.

14 (c) CLERICAL AMENDMENT.—The table of sections
 15 at the beginning of such chapter is amended by inserting
 16 after the items relating to subchapter II the following new
 17 item:

“3715. Guarantee of home equity conversion mortgages for elderly veteran
 homeowners.”.

